

Erling - direct

105. 2012 - Wit Rpt - Erling -

131

p1

R O B E R T E R L I N G produced as a witness on
be half of the state, being duly sworn according to
law, testified as follows:

DIRECT EXAMINATION BY MR. SIMPSON:

Q Where do you live, Mr. Erling?

A Johnson Farm, R. F. D. # 5, New Brunswick, N. J.

Q Is that in New Brunswick ?

A That isn't in the City limits.

Q How long have you lived in New Brunswick?

A I have been boarding there for three or four years?

Q Have been boarding. How long have you lived all
together in this vicinity?

A In the vicinity, have lived here all my life .

Q What is your occupation?

A At the present time it is millwright.

Q On Thursday the 14th of September 1922 were you in
De Russey's lane?

A Yes.

Q How did you get in there? How did you go in?

A By the way of Hamilton Streett.

Q And were you in an automobile or did you walk?

A In a car, Ford touring.

Q And as you drove in the Lane did you see any wagon
ahead of you?

A No sir.

Q How far did you go in the Lane?

A I went right up by the spring?

Q Where is that? How far in the lane is that spring?

A That is pretty near on the Easton Avenue end.

Q On the Easton Ave., end?

A Yes.

Q And do you know where the crab apple tree, don't you?

A Yes.

Q Is it beyond the crab apple tree?

A Towards the Hamilton Street side from it?

Q That is between the crab apple tree and Hamilton Street? A Yes.

Q While you were there did you see any wagon come in that lane?

A No.

Q Did you see any wagon at any time?

A Nowagon at all.

Q You didn't see any wagon come in?

A No wagon at all.

Q How long were you there before your attention was directed to anything?

A It was probably about an hour, hour and a quarter, hour and one-half.

Q Did you see anybody on a mule come in?

A Yes.

Q

Q Who did you see come along?

A Mrs. Gibson.

Q And where was she when you saw her?

A She was in front of the car and then she pulled to the side of the car and then she stopped about half a minute and then she looked in the car.

Q And did you know her before this night?

A Yes.

Q How far were you from the crab apple tree?
probably

A I think/a couple of thousand feet, maybe less than that.

Q You didn't see Mrs. Gibson after that time?

A No, I did not.

Q Are you able to fix accurately or only generally the time of night that you saw her?

A Generally.

Q Was it between 8 and 9, 9 and 10, 10 and 11 ---

A It was between 9 and 10 when I saw her.

Q You are sure it was her?

A Yes.

MR. SIMPSON: Cross examine.

CROSS EXAMINATION BY MR. PFLEIFER:

Q Mr. Erling, when was the first time you told this story to anyone?

A The first time I told this story to anyone?

Complete?

Q Or in sections?

A No one. I have never made a statement before.

Q You have kept quiet for four years, have you, about this statement?

A Yes.

Q You, I suppose read the newspapers four years ago when this case was under investigation?

A Yes.

Q You saw that Mrs. Gibson had made a statement concerning, didn't you?

A Yes.

Q You knew that the state four years ago was seeking desperately to seek some corroboration, didn't you?

A Yes.

MR. SILLPSON: I object. That assumes a fact not in evidence at all. It does not appear that the state was striving desperately at all, in fact the contrary appears so far in this case, and I am objecting to his question on the ground that it assumes a fact not in evidence. That is, he assumes it is a fact that the state was striving desperately but up to now, no one has answered that question to my

satisfaction.

THE COURT: I will hear you on that, I think it would be a conclusion on this witnesses part. I think if you have nothing to say on it, I will sustain the objection.

Q You say you communicated these facts to no one at all?

A Only one, Mrs. Russel is the only one I talked to.

Q When did you talk to Mrs. Russel?

A About two years ago.

Q Why did you go to Mrs. Russel about two years ago.

A She was in the case and I asked her what she thinks about it.

Q Wasn't there another case like this two years ago, Mr. Erling?

A No, there was not. There was nothing brought up two years ago.

Q What made you go to her at the particular time when the case was not, on the surface, at least, not being investigated?

A Because I wanted to find out what was what, and I was just getting ready to tell what I saw.

Q Why hadn't you been ready to talk at the time the case was being investigate four years ago?

A Because there was a girl with me and I don't want her name brought out.

Q Well, there was some change in that situation three years later?

A Yes. Afterwards I left here and her name wasn't mentioned yet under no circumstances.

Q Have you mentioned her name to Senator Simpson?

A That I will not say.

MR. SIMPSON: He mentioned it.

Q You just said under no circumstances would you tell who she was and now you reply that you told Mr. Simpson?

MR. SIMPSON: I object to that. He doesn't testify to anything of the kind. He said that, I will not say," and that, of course, is not sufficient warrant for saying that he has told me, from the beginning he has said that he wouldn't tell me.

Q Mr. Erling, have you told Senator Simpson the name of the girl?

A Maybe he knows.

MR. SIMPSON: That isn't the question.

Whether you told me personally or not?

WITNESS: No, I have never told Mr. Simpson.

Q Have you told any representative of the state the name of the girl?

MR. SIMPSON: I object to that, if your Honor please, as not proper cross examination. He is not compelled to tell the name of the girl or anything about the girl. All he is called for is to identify a certain person in the lane. He has not to reveal the name of the woman.

THE COURT: He is not being asked to do that. I think the question goes toward questioning the credibility of the witness, and for that reason I will permit the question. Have you told anyone connected with the state, that you know as being connected with the prosecution of this case, the name of the girl?

THE WITNESS: No, I haven't.

Q Do I understand you haven't told anyone connected with the state?

A I haven't.

MR. PFEIFFER: May I ask him to repeat the answer, your honor.

MR. SIMPSON: I object to that. Why should he repeat the answer? He has given one answer.

THE COURT: I have ruled upon the question and it is on the record.

Q Are you willing to tell me the name of the girl?

A No sir.

Q You are willing to tell the state but you are not willing to tell me?

MR. SIMPSON: I object to that?

THE COURT: I will sustain the objection because he has not said that he told the state.

MR. PFEIFFER: I beg pardon.

Q Mr. Erling what time was it that you were in the lane this night?

A The time when I went in there was about half past eight when I went in there.

Q How do you fix the time?

A I have never carried a watch in my life and I can figure time pretty close?

Q How do you fix the time?

A By the time it got dark. It was dark when I entered the lane.

Q It was dark when you entered the lane. Was it quite dark when you entered the lane?

A It wasn't quite dark but I had to put my headlights on.

Q Was there any other occupant of the car with you other than this unknown lady?

A No one at all.

Q What were you doing in the park that night?

A I wasn't in no park.

Q What were you doing in the lane that night?

A Taking a rest, just sitting down in the car.

Q And was the young lady doing the same?

A Yes.

Q Are you a married man? A No.

MR. SIMPSON: I object to that, wait a minute.

Is that for the purpose of attacking his credibility? He asked the witness if he is a married man. What difference does that make in this inquiry.

THE COURT: I will permit the question for what it is worth. Are you a married man?

THE WITNESS: I have answered.

Q How long did you stay in the lane?

A I was there about two to three hours.

Q You just told Senator Simpson, unless I mistake the testimony, that you were there about an hour and one half?

MR. SIMPSON: You are mistaken in telling anything of the kind.

Q You say now that it was two or three hours?

A Altogether?

Q And you were resting all that time? A Yes.

Q Did you stay in the car all that time?

A No.

Q All right. Will you just describe what your movements were when you got out of that car?

A I was riding all day and we took a walk back towards Hamilton Street and then came back to the car and sat down.

Q Did you walk alone back to Hamilton Street and leave the young lady in the car?

A No, she was with me.

Q Did you continue walking all the time you were with her?

A No.

Q What else did you do?

A I sat in the car.

Q No no, this was while you were walking with her, what else did you do besides walking if anything?

MR. SIMPSON: I object to that, what difference does it make what he did with the lady.

THE COURT: I don't know what difference it makes. This afternoon this court room will be closed to all except newspaper men and reporters and parties in interest. Unless I change my mind during the morning session that order will go into effect.

Q Mr. Erling, you said you took a walk with the young lady after you got to the lane, is that correct?

A That is correct.

Q And then you came back to the car?

A Yes.

Q And you sat in the car with her again?

A Yes.

Q How many seats did your Ford car have?

A Ford touring.

Q Ford touring. Four seats, is that correct?

A Two seats.

Q Well, one seat in front and one seat in back?

A Yes.

Q And the car held four people, is that right?

A It could hold five.

Q Did you leave your headlights burning?

A I did for a while and then I put them out because I didn't want to run my battery down.

Q How long had you been in the lane before you observed Mrs. Gibson?

A As I told you before, between an hour and one hour and one half.

Q You had been in the lane one hour or one hour and one half before you observed Mrs. Gibson?

A Yes.

Q So that you think you saw Mrs. Gibson about what time?

A Between nine and ten.

Q And what was she doing when you saw her?

A She was going towards her home.

Q Where was she with reference to the crab apple tree?

A Near the spring where my car was parked.

Q How far from the crab apple tree is that?

A As I told you before it must be two or three thousand feet, it might be less, I don't know.

Q That is nearly a half mile, isn't it? Two or Three thousand feet would be somewhere around a half mile?

A Well, you know there are five thousand two hundred and eighty feet in a mile and half of that would be two thousand six hundred and forty, wouldn't it?

A Yes, I never measured the distance, I can't say.

Q So the best recollection you have is that you would say she was from two to three thousand feet from the crab apple tree when you saw her?

A Where I saw her was right by the spring. I was ahead of the spring about 75 or 100 feet.

Q Now, was she on her mule when you saw her?

A Yes.

Q Did you observe what kind of clothes Mrs. Gibson had on?

A No, I did not.

Q Did her mule have a saddle ? A Yes.

Q Did it have stirrups?

A I didn't notice.

Q Did she have a hat on?

but

A I didn't notice, ~~when~~ I knowed Mrs. Gibson and I

knowed her face. I didn't pay no attentionat the time.

Q At the time you saw her there was a moon out, wasn't there?

A I didn't notice.

Q Well, how were you able to tell it was Mrs. Gibson?

A Because I knowed Mrs. Gibson. I know her personally,
I have done business with her.

Q Did you have any conversation with her?

A No, I have never talked with Mrs. Gibson.

Q You just said you had business with here?

A Since then I have never had any business to do with
her.

Q Well, did Mrs. Gibson indicate that she saw you?

A I don't know, I have never been told.

Q I mean from anything she did that night, did she indic-
ate that she saw you?

MR. SIMPSON: I object to that, that calls
for a conclusion. I don't object to him asking
what Mrs. Gibson did, but asking him the force of
what she did, I object to it.

Q Did Mrs. Gibson speak to you that night?

A No sir.

Q Or did you speak to her?

A No sir.

Q How close were you to her?

A She came right along side of the car and she stopped for about half a minute.

Q Were the lights of your car on at that time?

A No sir.

Q And she just looked in the car and said nothing?

A Looked in the car and went away but never said a word.

Q And when you recognized it was she, you didn't say anything to her?

A No, because I didn't want her to know who I was with.

Q Then did you see Mrs. Gibson again that night?

A No sir.

Q And you stayed in your car how much longer?

A I was there probably an hour afterwards.

Q And hour afterwards. You stayed in the same place?

A Same place, never moved the car.

Q Did anything occur during that hour that you were there?

A Yes.

Q What was it? A While I was there there was two cars parked on the left hand side of the street. I didn't know whose cars they were. There were no lights lit on them.

I didn't know they were there. Finally one car put lights on and came ahead. It was a Ford sedan, and then after a little pause another car, it was a touring car, was behind, they put their lights on and they came ahead and went out towards Hamilton Street.

Q Did any other incident occur --- you state you went there about 8.30 and about an hour and one half after you went there you saw Mrs. Gibson?

A I said I entered the lane about 8 o'clock.

Q And then about an hour and one half later you saw Mrs. Gibson there?

A Yes.

Q Then you stayed how much longer?

A I was there an hour. I can't give the exact time.

Q Did anything occur while you were there besides seeing the automobiles?

A I didn't hear no shooting.

Q You heard no shots at all while you were there?

A No, I didn't hear none.

Q And you were how close to the crab apple tree?

A Two or three thousand feet, probably, I can't give the exact distance.

Q Did you see any figures of persons walking or standing about other than Mrs. Gibson while you were there?

A No sir, only one.

There was a truck came through that had one lantern on.

Q Now, Mr. Erling - Mr. Stevens, will you be good enough to stand up? Will you tell me if you saw Mr. Stevens there that night?

A I didn't see him.

Q Mr. Harry Carpenter, will you be good enough to stand up? Did you see Mr. Harry Carpenter there that night?

A I saw neither man.

Q And you didn't see a y woman other that ---

A Mrs. Gibson and the girl was with me.

Q And you heard no shots atall?

A No, I heard no shots.

Q You are positive you heard no shots?

A No, I heard no shots.

Q And your hearing is all right, isn't it?

A Yes.

Q You have no trouble at all in hearing me in this low tone of voice, have you?

A No, I can hear you plainly.

Q And you could that time? Four years ago your hearing was just as good?

A Yes.

Q Mr. Erling, after Mrs. Gibson left your car, as you testified, in what direction did she go?

A She went out towards Hamilton Street.

Q Toward Hamilton Street?

A Towards Hamilton Street.

Q And would that be the direction that a person going to the house of Mrs. Russel would take?

A Yes, it would.

Q And you say you got into the lane about 8 o'clock as near as you can remember?

A Around 8.

Q And around an hour and one half later you saw Mrs. Gibson?

A Yes.

Q Going toward the direction as you would go if you were going to go to Mrs. Russel's house?

A Yes.

Q Now, you said you had had some dealings with Mrs. Gibson. Will you tell us what the nature of this business was?

A We sold her two or three loads of corn stalks and we bought manure off her and different things.

Q And you had had some conversations with Mrs. Gibson in connection with those transactions?

A Yes.

Q How long before September 14th, 1922 was the last of

those transactions?

A I think it was just two years ago the last dealings we had because the man where I am living doesn't raise any more stuff on the ground.

Q And you had sold her corn etc.,

A Just stalks.

Q Stalks for her cattle and hogs?

A I don't think she has any cattle.

Q Well, for hogs or chickens, or whatever it was, is that right?

A She bought the stalks, whatever she used them for I don't know.

Q And you had had no conversation with Mrs. Gibson for two years before this?

A I have been on Gibsons place more than once. I used to bring laundry up there for the man I worked for.

Q Are you able to tell us when was the last time before the middle of October 1922 that you were at Mrs. Gibsons farm?

A I wasn't there, I didn't deliver the goods.

Q I thought you just said you were at her farm. I am not trying to trick you?

A I have been on her farm before and I used to bring laundry there?

Q How long ago is that?

A That must be about four or five years I used to bring laundry there.

Q So you don't recall when the last time was you were on her farm before the middle of October, 1922?

A No, I couldn't give any date.

Q And you say that you had no conversation with Mrs. Gibson concerning this matter before you went to Mrs. Russel?

A No, I have never talked to Mrs. Gibson about anything.

Q Mr. Erling, you say you said nothing as to this occurrence until two years later. How do you fix the night of September 14th as the night you were there?

A Because it was Thursday Night, and the bodies were found Saturday ~~Thursday~~ Morning.

Q And you immediately realized that the bodies were found in a place near where you had been Thursday night?

MR. SIMPSON: I object to that, he doesn't say anything of the kind. He says he was half a mile from where the bodies were found. This he has testified to because the feet have been so accurately figured out by the counsel, so that when he says he was near it is a misquotation of the evidence.

THE COURT: Mr. Pfeiffer, will you reframe

the question?

Q When you read in the papers Saturday or Sunday that there were two bodies found you realized that they were found at a place that was within two or three thousand feet of where you were that night?

A Yes.

Q And you didn't make any statement to the authorities because of the fact that you had a young lady with you?

MR. SIMPSON: I object to that as a misquotation. He doesn't say that at all. He said, "He didn't say anything about seeing Mrs. Gibson after Mrs. Gibson's testimony came --- he doesn't say anything of the kind. He simply says he didn't say anything about seeing Mrs. Gibson after Mrs. Gibson's story came out because he had a girl with him. He at no time has pretended in his testimony to know anything about this murder. He never was at the scene of the murder never saw anybody there and don't know anything at all about it, so it is a misquotation to try to put in his mouth the words "You didn't tell anybody about this because you had a girl with you," because he knew nothing about the murder. All he is valuable for is to fix Mrs. Gibson in the lane

and to fix the wagon that he says she was following in the lane.

THE COURT: I don't recall just what it was.

MR. PFEIFFER: I am not attempting/acquaint^{to}the witness at all, I am asking a question.

THE COURT: I understand that, but the question, of course, on cross examination, has got to relate to some testimony that he gave on his direct examination, and you cannot put into the question, some statement that was not made by the witness during his examination either on cross or direct. His testimony, as I understand directed it is/to the ~~effect~~ fact that he never made any statement as to having seen Mrs. Gibson at the scene of the alleged murder on the night in question because he was accompanied by a woman on that night whose name he did not want to dragg into it and would not up to this point.

MR. PFEIFFER: Than may I ask the question whether or not that is the reason why he made no statement to the authorities?

THE COURT: Yes, you may ask that.

Q Is it because you had a young lady with you that night whose name you did not wish to bring into this matter that you failed to state anything to the authorities

as to where you were that night?

A Yes.

Q Now, when Mrs. Gibson came to your automobile and looked, did she have anything in her hand?

A I didn't notice.

Q Did she have a pocket light?

A When I saw Mrs. Gibson I turned my head the other way, because she knows me and I had a girl with me and I turned my head the other way so she couldn't see who I was with?

Q Are you able to tell us, Mr. Erbling, about how long you and the young lady were out of the automobile when you took a walk?

A We were out a good half hour?

Q A good half hour?

A Yes

Q And with respect to the crab apple tree, did you walk further away from the crab apple tree or toward it?

A Away from it.

Q About how far do you think you walked?

A Well, I don't know.

Q About how far would you think you walked?

A I wasn't thinking about how far I was going at the time, we was just walking? Might have went a mile.

Q Did you walk all the time --

MR. SHERSON: He says he might have gone a

mile, get that on the record.

Q Did you walk all the time or did you from time to time stop?

MR. SIMPSON: I object to this. They went into this before and you have ruled it out. It doesn't make any difference whether he was tickling the young lady under the chin or picking wild flowers, or what he was doing.

THE COURT: The purport of the question, as I think is to fix the time and distance which he may have traveled. I will permit the question.

MR. PFEIFFER: Exactly, your honor.

No such thought is in my mind as is in Mr. Simpson's mind, apparently.

Q While you were walking for a half hour - you say you were, is that right?

A Yes.

Q Were you walking all the time or did you from time to time stop?

A We were walking slowly.

Q And it was a half hour ----

A The time I couldn't remember.

Q Somewhere around half an hour from the time you left car
the ~~girl~~ until you got back to the car ?

A Yes.

Q And you had been walking slowly all the time?

A Yes, I was walking slowly.

Q And you didn't stop at all during the half hour?

A No, didn't stop at all. It might have been three quarters of an hour, I couldn't state.

Q Well, now, how long was it about that you got out of the car for this walk after you went into the lane?

A It was before I saw Mrs. Gibson. We were sitting in the car about fifteen minutes before we took the walk and we came back.

Q So that it was before you saw Mrs. Gibson that you took the walk?

A Yes.

Q And after you came back she then came to your car?

A Yes, after we were sitting in the car about ten or fifteen minutes.

Q And you say that Mrs. Gibson didn't say a word to you?

A No, she didn't even speak.

Q She didn't say that she had heard any shots?

A How could she if she didn't speak to me?

Q Did you tell the young lady with whom you were that night that it was Mr. Gibson?

A I didn't have to tell her, because she knew her.

Q Answer the question?

A I have answered your question the best I can.

Q THE COURT: The question is did you tell her?

WITNESS: No, I did not.

Q Now, you say the young lady did know Mrs. Gibson?

A Yes.

Q And for that reason it was unnecessary for you to tell her?

A It was unnecessary for me to tell her.

By the Court:

Q Do I understand you to say that it was about half

past eight to the best of your knowledge when you arrived at the place?

MR. SIMPSON: He said eight o'clock.

8.

THE COURT: When you entered the lane?

THE WITNESS: Yes.

THE COURT: And you were there fifteen or
twenty minutes before you took the walk?

8.20

THE WITNESS: Yes.

THE COURT: And then you took a walk which
took you about half hour, apparently?

8.50

THE WITNESS: Yes.

THE COURT: And then you came back and went
into the car about fifteen or twenty minutes?

9.10

THE WITNESS: Yes.

Q And during all the time that you were in the lane there
in the car or out on the walk you heard no shots?

A Heard no shots.

Q And you say you were there from approximately eight ~~xxx~~
o'clock at night until at least half-past ten ?

A At least half past ten.

8 1/2 10.30

MR. PFEIFFER: That is all.

RE-DIRECT EXAMINATION BY MR. SIMPSON:

Q One question. How long before you saw Mrs. Gibson coming back did the wagon go through ? How long had it passed through ?

A. I didn't see the wagon.

Q Well, you said something about a wagon ?

A There was a truck came through had one lantern on it.

Q How long is that before you saw Mrs. Gibson ?

A That was probably about fifteen or twenty minutes.

Q Before you saw her ?

A Just as we got in the car.

Q. Did somebody in your car shout out "What is the matter with your lights ?"

A My girl said "Where is your light ?"

Q There was a dim light on ?

A He had a lantern.

Q You were asked about the direction of the Russel house. The way Mrs. Gibson was going was bringing her towards Hamilton Avenue ?

A Yes, towards hereown home.

Q And that would bring her to her own home?

A Yes, she was going towards her own home.

MR. PFETTER: May I ask a question now
Senator?

MR. SIMPSON: If you will finish sometime,
I have no objection.

RE-CROSS EXAMINATION BY MR. PFETTER:

Q In answer to the question of Senator Simpson with
respect to a wagon, you said you saw no wagon, what
was it that you saw?

A I saw a truck.

Q What kind of a truck, and automobile truck?

A I couldn't tell, it only had one lantern on.

Q Was it a motor truck or was it a truck which was
driven by horses?

A It was a motor truck.

Q And it wasn't a noisy rickety wagon, was it?

A No. It was going towards Hamilton Street.

MR. PFETTER: That is all

(At this time a recess of five minutes
was taken.)